

HOUSE BILL 379

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1lr2131
CF SB 334

By: ~~Delegate Niemann~~ Delegates Niemann, Healey, Glenn, Gilchrist, and Wilson

Introduced and read first time: February 3, 2011

Assigned to: Environmental Matters

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 1, 2011

CHAPTER _____

1 AN ACT concerning

2 **Real Property – Deposits on New Homes – Escrow Accounts**

3 FOR the purpose of clarifying the circumstances under which a vendor or builder of a
4 new single-family residential unit is required to deposit certain money in a
5 certain escrow account or obtain and maintain a certain surety bond or
6 irrevocable letter of credit; clarifying the circumstances under which the
7 vendor's or builder's obligation to maintain an escrow account, surety bond, or
8 letter of credit terminates; authorizing the vendor or builder to make
9 withdrawals from an escrow account under certain circumstances; providing
10 that a banking institution or national banking association at which a certain
11 escrow account is maintained is not responsible for a withdrawal from the
12 escrow account under certain circumstances; establishing that any sum of
13 money received by a vendor or builder in connection with the sale and purchase
14 of a new single-family residential unit shall be held in trust for the benefit of
15 the purchaser; establishing that certain payments shall be consistent with ~~the~~
16 ~~trust~~ a certain trust obligation; defining certain terms; and generally relating to
17 deposits on new homes.

18 BY repealing and reenacting, with amendments,
19 Article – Real Property
20 Section 10–301 and 10–301.1
21 Annotated Code of Maryland
22 (2010 Replacement Volume and 2010 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY adding to
 2 Article – Real Property
 3 Section 10–301.1
 4 Annotated Code of Maryland
 5 (2010 Replacement Volume and 2010 Supplement)

6 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 7 MARYLAND, That the Laws of Maryland read as follows:

8 **Article – Real Property**

9 10–301.

10 (a) If, in connection with the sale and purchase of a new single–family
 11 residential unit [which], **THE CONSTRUCTION OF WHICH HAS NOT BEGUN OR, IF**
 12 **BEGUN**, is not completed at the time of contracting the sale, the vendor or builder
 13 obligates the purchaser to pay and the vendor or builder receives any sum of money
 14 before completion of the unit and grant of the realty to the purchaser, the builder or
 15 vendor shall:

16 (1) Deposit or hold the sum in an escrow account segregated from all
 17 other funds of the vendor or builder to assure the return of the sum to the purchaser in
 18 the event the purchaser becomes entitled to a return of the sum;

19 (2) Obtain and maintain a corporate surety bond in the form and in
 20 the amounts set forth in § 10–302 of this subtitle, conditioned on the return of the sum
 21 to the purchaser in the event the purchaser becomes entitled to the return of the
 22 money; or

23 (3) Obtain and maintain an irrevocable letter of credit issued by a
 24 Maryland bank in the form and in the amounts set forth in § 10–303 of this subtitle.

25 (b) **(1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
 26 **SUBSECTION, THE** vendor or builder shall maintain the escrow account, surety bond,
 27 or irrevocable letter of credit until the happening of the earlier of:

28 **[(1)] (I)** The granting of a deed to the property on which [the] A
 29 **COMPLETED** residential unit is located to the purchaser;

30 **[(2)] (II)** The return of the sum of money to the purchaser; or

31 **[(3)] (III)** The forfeiture of the sum by the purchaser, under the terms
 32 of the contract of sale relating to the purchase of the residential unit.

33 **(2) THE VENDOR OR BUILDER MAY MAKE WITHDRAWALS FROM**
 34 **AN ESCROW ACCOUNT ESTABLISHED UNDER SUBSECTION (A)(1) OF THIS**
 35 **SECTION THAT CONSISTS OF SUMS RECEIVED TO FINANCE THE CONSTRUCTION**

1 ~~OF A RESIDENTIAL UNIT TO PAY, IN ACCORDANCE WITH A DRAW SCHEDULE~~
2 ~~AGREED TO BY THE PURCHASER,~~ DOCUMENTED CLAIMS OF PERSONS WHO HAVE
3 FURNISHED LABOR OR MATERIAL FOR THE CONSTRUCTION OF THE
4 RESIDENTIAL UNIT.

5 (C) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE
6 THE MEANINGS INDICATED.

7 (II) "BANKING INSTITUTION" HAS THE MEANING STATED IN
8 § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

9 (III) "NATIONAL BANKING ASSOCIATION" HAS THE MEANING
10 STATED IN § 1-101 OF THE FINANCIAL INSTITUTIONS ARTICLE.

11 (2) A BANKING INSTITUTION OR NATIONAL BANKING
12 ASSOCIATION AT WHICH AN ESCROW ACCOUNT ESTABLISHED UNDER
13 SUBSECTION (A)(1) OF THIS SECTION IS MAINTAINED IS NOT RESPONSIBLE FOR
14 A WITHDRAWAL FROM THE ESCROW ACCOUNT MADE BY THE VENDOR OR
15 BUILDER.

16 **10-301.1.**

17 (A) ANY SUM OF MONEY RECEIVED BY A VENDOR OR BUILDER IN
18 CONNECTION WITH THE SALE AND PURCHASE OF A NEW SINGLE-FAMILY
19 RESIDENTIAL UNIT SHALL BE HELD IN TRUST FOR THE BENEFIT OF THE
20 PURCHASER.

21 (B) ANY PAYMENTS MADE FOR LABOR OR MATERIAL IN CONNECTION
22 WITH THE CONSTRUCTION OF THE RESIDENTIAL UNIT SHALL BE CONSISTENT
23 WITH THE TRUST OBLIGATION REQUIRED UNDER SUBSECTION (A) OF THIS
24 SECTION.

25 **[10-301.1.] 10-301.2.**

26 (a) A vendor or builder may deposit trust moneys in:

27 (1) A noninterest bearing checking account;

28 (2) One or more savings accounts; or

29 (3) Any combination of accounts in any bank or savings and loan
30 association authorized by federal or State law to do business in the State.

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1 (b) Trust moneys in the hands of the vendor or builder may be invested in
2 any other investment vehicle specified by the client or beneficial owner or as they and
3 the licensee may agree.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 ~~October~~ July 1, 2011.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.